

1 AVENATTI & ASSOCIATES, APC
Michael J. Avenatti, State Bar No. 206929
2 Ahmed Ibrahim, State Bar No. 238739
520 Newport Center Drive, Suite 1400
3 Newport Beach, CA 92660
Telephone: 949.706.7000
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5 Attorneys for Plaintiff Stephanie Clifford
a.k.a. Stormy Daniels a.k.a. Peggy Peterson
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7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 STEPHANIE CLIFFORD a.k.a.
12 STORMY DANIELS a.k.a. PEGGY
PETERSON, an individual,

13 Plaintiff,

14 vs.

15 DONALD J. TRUMP a.k.a. DAVID
16 DENNISON, and individual,
ESSENTIAL CONSULTANTS, LLC, a
17 Delaware Limited Liability Company,
MICHAEL COHEN and DOES 1
18 through 10, inclusive,

19 Defendants.
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CASE NO.: 2:18-cv-02217-SJO-FFM

**DECLARATION OF MICHAEL J.
AVENATTI IN SUPPORT OF
PLAINTIFF'S RESPONSE TO
JOINT *EX PARTE* APPLICATION
OF DEFENDANTS ESSENTIAL
CONSULTANTS, LLC AND
DONALD J. TRUMP FOR
EXTENSION OF TIME TO
RESPOND TO FIRST AMENDED
COMPLAINT**

1 I, Michael J. Avenatti, declare as follows:

2
3 1. I am an attorney duly admitted to practice before this Court. I am an
4 attorney with the law firm of Avenatti & Associates, APC, counsel of record for Plaintiff
5 Stephanie Clifford ("Plaintiff"). I am submitting this declaration in support of Plaintiff's
6 Response to the Joint *Ex Parte* Application of Defendants Essential Consultants, LLC
7 and Donald J. Trump for Extension of Time to Respond to First Amended Complaint. I
8 have personal knowledge of the information stated herein and if called to testify to the
9 same would and could do so.

10 2. As reflected in the Court's March 29, 2018 Order (Dkt No. 17), the Court set
11 out specific deadlines which, in our view, the Court intended for the parties to comply
12 with. I interpreted this very clear directive from the Court as an admonition to the parties
13 to make sure the parties not deviate from the Court's instructions and that the deadlines
14 "must" be complied with. A stipulation to move Defendants' response deadline would
15 constitute such a deviation. Indeed, this interpretation of the Court's order is also based
16 on my past knowledge and experience with this Court, including the Court's expectations
17 that its orders be carefully observed and obeyed.

18 3. As a result, both on the phone on Monday, April 2nd, and in my e-mail to
19 Defendants' counsel dated Tuesday, April 3rd, I stated: "[A]s we have previously
20 explained, Judge Otero set out specific deadlines in his order last week, which we believe
21 he intends for the parties to follow. This is not a simple case of moving deadlines set by
22 the FRCP." [See Blakely Decl., Ex. D (Dkt No. 26-1 at 16).]

23 4. Counsel for Mr. Trump, Mr. Charles Harder, did not participate in the
24 Monday, April 2nd meet and confer discussion between the parties relating to the relief
25 sought by Defendants. By way of background, on March 30, counsel for Essential
26 Consultants, LLC ("EC"), Mr. Brent Blakely, requested a meet and confer with regards
27 to, among other things, a request for an extension of both EC and Mr. Trump's deadline
28

1 to respond to the FAC. [Blakely Decl., Ex. B (Dkt No. 26-1 at 11-12).] I agreed to a
2 telephonic meet and confer (to accommodate Mr. Blakely's trial schedule) on Monday,
3 April 2nd. Attached hereto as Exhibit A is a true and correct copy of an e-mail
4 confirming our agreement to hold the meet and confer call at 11:00 a.m. on Monday,
5 April 2.

6 5. Because the Monday call pertained at least in part to Defendants' request for
7 an extension, I understood that counsel for both Defendants would be present. And in
8 fact, Mr. Harder indicated in an e-mail that he, too, would be participating in the meet
9 and confer discussion on Monday. Attached hereto as Exhibit B is a true and correct
10 copy of an e-mail string in which Mr. Harder indicates he intends to participate in the
11 meet and confer.

12 6. For this reason, when I dialed into the telephonic conference on Monday, I
13 was surprised that Mr. Harder was not on the phone. I advised Mr. Blakely that Mr.
14 Harder was required to be on the call per local rules and this Court's standing order. Mr.
15 Blakely responded that he did not believe Mr. Harder's participation was necessary.
16 Despite posing the question to both Mr. Harder and Mr. Blakely, I have not received an
17 explanation for why Mr. Harder did not participate in the meet and confer.

18 7. I do not believe that I am at fault for the delay in scheduling the second meet
19 and confer discussion, either. EC claims I delayed 30 hours in responding to his request.
20 This is hyperbole. The timestamp on Mr. Blakely's e-mail shows he sent the e-mail at
21 10:49 p.m. on Tuesday night (or 1:49 a.m. Wednesday on the east coast where I was
22 present at the time) proposing to meet and confer on Wednesday evening. [Blakely
23 Decl., Ex. D (Dkt No. 26-1 at 16).] I responded to Mr. Blakely. [Blakely Decl., Ex. E
24 (Dkt No. 26-1 at 22).] I advised Mr. Blakely that I was not available at that time because
25 of scheduled travel. Because I knew Mr. Blakely would be in trial through Friday, I
26 suggested that I could make himself "available over the weekend . . . if that is more
27 convenient." [*Id.*] I did so in the belief that this would be more convenient to Mr.
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1 Blakely's trial schedule, but at no point did I refuse to meet and confer at another time
2 before the weekend.

3
4 I declare, under penalty of perjury and under the laws of the United States of
5 America, that the foregoing is true and correct. Executed on April 6, 2018.

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7 /s/ Michael J. Avenatti

8 Michael J. Avenatti
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EXHIBIT A

Judy K. Regnier

From: Brent Blakely <bblakely@blakelylawgroup.com>
Sent: Friday, March 30, 2018 7:02 PM
To: Michael J. Avenatti
Cc: charder@harderllp.com; Ryan Stonerock; Judy K. Regnier; Ahmed Ibrahim
Subject: RE: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

Thank you.

Regards, Brent

Brent H. Blakely, Esq.
Blakely Law Group
1334 Parkview Ave., Suite 280
Manhattan Beach, California 90266
Telephone: 310.546.7400
Facsimile: 310.546.7401
www.blakelylawgroup.com

From: Michael J. Avenatti [mailto:mavenatti@eaganavenatti.com]
Sent: Friday, March 30, 2018 6:53 PM
To: Brent Blakely
Cc: charder@harderllp.com; Ryan Stonerock; Judy K. Regnier; Ahmed Ibrahim
Subject: Re: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

That's fine. But I don't think we need a notice.

Michael J. Avenatti, Esq.
Eagan Avenatti, LLP
520 Newport Center Drive, Ste. 1400
Newport Beach, CA 92660
Tel: [\(949\) 706-7000](tel:(949)706-7000)
Fax: [\(949\) 706-7050](tel:(949)706-7050)
Cell: [\(949\) 887-4118](tel:(949)887-4118)
mavenatti@eaganavenatti.com

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On Mar 30, 2018, at 6:19 PM, Brent Blakely <bblakely@blakelylawgroup.com> wrote:

Dear Mr. Avenatti:

Will you consent to hold the meet and confer conference on Monday telephonically due to the fact that I'm starting trial the next day in downtown Los Angeles and you're located in Newport Beach? If so, I'll put together a brief notice that we can get on file with the Court, and send it over for your approval.

Regards, Brent

Brent H. Blakely, Esq.
Blakely Law Group
1334 Parkview Ave., Suite 280
Manhattan Beach, California 90266
Telephone: 310.546.7400
Facsimile: 310.546.7401
www.blakelylawgroup.com

From: Brent Blakely [mailto:bblakely@blakelylawgroup.com]
Sent: Friday, March 30, 2018 1:10 PM
To: 'Michael J. Avenatti'
Cc: 'charder@harderllp.com'; 'Ryan Stonerock'; 'Judy K. Regnier'; 'Ahmed Ibrahim'
Subject: RE: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

Dear Mr. Avenatti:

1. EC is planning to file the motion within the next week. My understanding is that Mr. Trump intends to join in the motion
2. We disagree that this issue requires clarity in advance of our meeting on Monday. EC's motion to compel arbitration should be granted regardless of whether Mr. Trump is a party or third party beneficiary to the agreement. Further, because you have disclosed our previous meet and confer discussions directly to CNN, and mischaracterized them, and CNN reported on the issue, and also because you disclosed our prior meet and confer discussions on your Twitter account, which we assume is monitored by scores if not hundreds of national and international reporters, and you also mischaracterized our discussions in the process, we do not intend to have any further communications with you that go beyond the strict requirements of the court's rules.

Regards, Brent Blakely

Brent H. Blakely, Esq.
Blakely Law Group
1334 Parkview Ave., Suite 280
Manhattan Beach, California 90266
Telephone: 310.546.7400

Facsimile: 310.546.7401

www.blakelylawgroup.com

From: Michael J. Avenatti [<mailto:mavenatti@eaganavenatti.com>]
Sent: Friday, March 30, 2018 12:01 PM
To: Brent Blakely
Cc: charder@harderllp.com; Ryan Stonerock; Judy K. Regnier; Ahmed Ibrahim
Subject: RE: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM
Importance: High

Mr. Blakely:

Thank you for your email. I will disregard your personal attacks in the interest of professionalism.

We will be prepared to discuss each of these issues on Monday in our office in Newport Beach, CA beginning at 11:00 a.m. Please let me know if that is acceptable. In the interim, we reserve all rights.

Two issues that we require clarity on in advance of the meeting:

1. When do you anticipate filing a motion to compel arbitration and which parties will be filing said motion?
2. I inquired 10 days ago and have yet to receive an answer to the following question - Was Donald Trump ever a party to the agreement? If so, how and when? Presumably, your side has determined the answers to these questions as they are not complicated questions.

Thank you in advance.

Michael

Michael J. Avenatti, Esq.
Eagan Avenatti, LLP
520 Newport Center Drive, Ste. 1400
Newport Beach, CA 92660
Tel: (949) 706-7000
Fax: (949) 706-7050
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From: Brent Blakely [bblakely@blakelylawgroup.com]
Sent: Friday, March 30, 2018 11:43 AM
To: Michael J. Avenatti
Cc: charder@harderllp.com; Ryan Stonerock
Subject: RE: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

Dear Mr. Avenatti:

I am writing to address three issues:

1. **Meet and Confer re: Michael Cohen's Anti-SLAPP Motion:** We have yet to receive a response to my March 27, 2018 letter requesting a meet and confer regarding Mr. Cohen's contemplated motion. (attached) It is disappointing that you have not responded given that you have had plenty of time to discuss this case on numerous national news shows. As previously indicated, I will be in trial beginning on Tuesday, April 3rd. Thus, please let me know your availability this afternoon, over the weekend, or on Monday. Also, please be advised that Mr. Cohen intends to concurrently file a Motion to Dismiss under FRCP 12(b)(6) on the basis that your client's second cause of action fails to state a claim for relief.
2. **Extension of EC/Mr. Trump's Deadline to Respond to FAC:** EC and defendant Donald J. Trump request that your client stipulate to a 30 day extension of their deadline to file a responsive pleading or Rule 12 motion. In light of EC's upcoming motion to compel arbitration, we request this extension in the interests of judicial economy. We also note that Section B.2. of the Central District's Civility and Professionalism Guidelines states, in part: "Unless time is of the essence, as a matter of courtesy we will grant first requests for reasonable extensions of time to respond to litigation deadlines." If your client is not agreeable to this extension, we will have no choice but to raise this issue with the court.
3. **Service of the First Amended Complaint on Michael Cohen:** My office will agree to accept service of the First Amended Complaint on behalf of Michael Cohen. Please have the First Amended Complaint and Summons served on my office address, which is below.

We look forward to your prompt response.

Regards, Brent Blakely

Brent H. Blakely, Esq.
Blakely Law Group
1334 Parkview Ave., Suite 280
Manhattan Beach, California 90266
Telephone: 310.546.7400
Facsimile: 310.546.7401
www.blakelylawgroup.com

From: Monica Lawal [mailto:mlawal@blakelylawgroup.com]
Sent: Tuesday, March 27, 2018 1:44 PM
To: mavenatti@eoalaw.com

Cc: Brent Blakely; charder@harderllp.com; Ryan Stonerock

Subject: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

Dear Mr. Avenatti,

Please see attached from Mr. Blakely.

Regards,

Monica Lawal
Blakely Law Group
1334 Parkview Avenue, Suite 280
Manhattan Beach, California 90266
T: [310.546.7400](tel:310.546.7400)
F: [310.546.7401](tel:310.546.7401)

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EXHIBIT B

Judy K. Regnier

From: Charles Harder <charder@harderllp.com>
Sent: Friday, March 30, 2018 1:32 PM
To: Michael J. Avenatti
Cc: Brent Blakely; Ryan Stonerock; Judy K. Regnier; Ahmed Ibrahim
Subject: Re: Clifford v. Trump, et al; Case No. 18-cv-02217-SJO-FFM

Mr Avenatti: This will confirm that we will meet at your office at 11 AM on Monday.

Charles J. Harder
HARDER LLP
132 S. Rodeo Drive, Fourth Floor
Beverly Hills, CA 90212
(424) 203-1600
www.HarderLLP.com

Sent from iPhone; please excuse any typos.

On Mar 30, 2018, at 12:01 PM, Michael J. Avenatti <mavenatti@eaganavenatti.com> wrote:

Mr. Blakely:

Thank you for your email. I will disregard your personal attacks in the interest of professionalism.

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Thank you in advance.

Michael

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Regards,

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